

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION**

UNITED STATES OF AMERICA

*Plaintiff,*

v.

0.062 ACRES OF LAND, MORE OR  
LESS, SITUATE IN STARR COUNTY,  
STATE OF TEXAS; JOSE ROEL  
MONTALVO., *ET AL.*,

*Defendants.*

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CASE NO. 7:20-CV-400

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**JOINT STIPULATION AND MOTION FOR ENTRY OF ORDER ESTABLISHING  
JUST COMPENSATION, GRANTING POSSESSION, DISBURSING FUNDS ON  
DEPOSIT IN THE COURT’S REGISTRY, AND CLOSING CASE**

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COME NOW, the United States of America (“Plaintiff”) and Jose Roel Montalvo, Ninfa Montalvo Mireles, <sup>1</sup> Edna Montalvo Cantu, Anna (Ana Marie) Montalvo Garza, and Ameida Salinas, Starr County Tax Assessor-Collector (“Defendants”) and file this stipulation of dismissal pursuant to Fed. R. Civ. P. 71.1 (i)(1)(B).

1. On December 8, 2020, pursuant to the Declaration of Taking Act (40 U.S.C. § 3114), and Federal Rule of Civil Procedure 71.1, the United States commenced this condemnation action by filing a Complaint in Condemnation<sup>2</sup> and Declaration of Taking<sup>3</sup> to acquire a fee simple interest in property identified as Tract RGV-RGC-2049 (“Subject property”).<sup>4</sup> The

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<sup>1</sup> Considering the Court’s Order, Dkt No. 29, between May 12 and May 18, 2021, the United States attempted to contact the parties in the case on the proper spelling of Ninfa M. Mireles. The United States advised the Court in Dkt No. 30, that Anna (Ana Marie) Montalvo Garza confirmed the proper spelling of the last name was “Mireles.”

<sup>2</sup> Dkt. No. 1.

<sup>3</sup> Dkt. No. 2.

<sup>4</sup> Schedules “C,” “D,” & “E,” Dkt. No. 1.

interests and property are more particularly described at Schedules “C”, “D”, and “E” of the Declaration.<sup>5</sup>

2. The Declaration of Taking acquired a fee simple interest in 0.062 acres of real property and identified: Jose Roel Montalvo, Ninfa Montalvo Mireles, Edna Montalvo Cantu, Anna (Ana Marie) Montalvo Garza, and Ameida Salinas, Starr County Tax Assessor-Collector as potentially having an interest in the Subject Property.<sup>6</sup>
3. On July 1, 2021, the United States deposited \$65.00 into the Court’s Registry as the estimated just compensation in this case.<sup>7</sup> Pursuant to 40 U.S.C. § 3114(b)(1), the filing and the deposit immediately vested title to the Subject Property in the United States.
4. The estate acquired in Tract RGV-RGC-2049 contains a 0.063-acre tract parcel of land, out of a larger parcel 0.103 acres in size.<sup>8</sup>
5. The United States and the Defendants now make this stipulation and motion for entry of an Order (1) establishing sixty-five and 00/100 dollars (\$65.00) as the total just compensation for the fee interests particularly described at Schedules “C”, “D”, and “E” of the Declaration<sup>9</sup>; (2) disbursing the stipulated just compensation, as directed below, from the funds on deposit in the Registry of the Court; (3) granting possession; and (4) closing this case on the Court’s docket. As grounds for this motion, the parties jointly state that:
  - a. The United States and Defendants confirm and agree that the full and just compensation payable by the United States for the taking of Tract RGV-RGC-2049 (hereafter,

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<sup>5</sup> *Id.*

<sup>6</sup> See Schedule “G,” Dkt No. 2. Unknown Heirs of Jose Roel Montalvo and Unknown Heirs of Eusebia Leonila Guerra Montalvo, were also listed in the original Schedule G as having an interest in the property and were subsequently dismissed. See Dkt No. 29.

<sup>7</sup> Dkt No. 32.

<sup>8</sup> Schedules “C,” “D,” & “E,” Dkt. No. 1.

<sup>9</sup> *Id.*

“Subject Property”) shall be the sum of sixty-five and 00/100 dollars (\$65.00) plus any accrued interest, which sum is all inclusive, for the taking of stated interests in the Subject Property. This sum is in full satisfaction of any claims of whatsoever nature by Defendants against the United States for the institution and prosecution of the above-captioned action.

- b. The parties now respectfully request that judgment be entered against the United States in the amount of sixty-five and 00/100 dollars (\$65.00) for the taking of Tract RGV-RGC-2049, along with any accrued interest.
- c. The Parties agree that the total sum of sixty-five and 00/100 dollars (\$65.00), with accrued interest, shall be subject to all taxes, liens, encumbrances, and charges of whatsoever nature existing against the interests in the property taken in this proceeding at the time of vesting of title in the United States, and all such real estate taxes, liens, encumbrances, and charges of whatsoever nature shall be payable to and deductible from this amount.
- d. As a result, the Parties agree that Defendant, Starr County Tax Assessor-Collector, has a valid claim on the just compensation to be paid for the property, specifically, *ad valorem* taxes, penalties and interest that have accrued consistent with the appropriate provisions of the Texas Property Tax Code including, but not limited to, sections 32.01, 32.04, 32.05, 33.01, 33.07, and 33.48. The property that is the subject of the United States’ condemnation and included herein, is legally subject to annual assessments for ad valorem taxes. Defendant Starr County Tax Assessor-Collector’s interest stems from those assessments.
- e. Upon the Court’s Order entering judgment in accordance with the instant stipulation of

just compensation for the taking of Tract RGV-RGC-2049, the parties seek immediate distribution of the total sum of **sixty-five and 00/100 dollars (\$65.00)**, which remains on deposit in the Registry of the Court, **along with any accrued interest earned thereon while on deposit**, to be disbursed as follows:

- i. \$65.00 with accrued interest from the date of deposit to “Starr County Tax Assessor/Collector,” tax identification number 17794, on account of the taxes owed on the Subject Property.
- f. Defendants warrant that Defendants, Jose Roel Montalvo, Ninfa Montalvo Mireles, Edna Montalvo Cantu and Anna (Ana Marie) Montalvo Garza, were the owners of the interest in the property taken in this proceeding on the respective date of taking, (b) that as a result of the outstanding property taxes held over the Subject Property and valid claim made by Starr County Tax Assessor/Collector, Starr County Tax Assessor/Collector has the exclusive right to the compensation set forth herein, excepting the interests of other parties having liens, encumbrances of record, and unpaid taxes and assessments, if any, and (c) no other party is entitled to the same or any part thereof by reason of any unrecorded agreement.
- g. In the event that any other party is ultimately determined by a court of competent jurisdiction to have any right to receive compensation for the interest in the property taken in this proceeding, Defendant, Starr County Tax Assessor-Collector, shall refund into the Registry of the Court the compensation distributed herein, or such part thereof as the Court may direct, with interest thereon at an annual rate provided in 40 U.S.C. § 3116 from the date of receipt of the respective deposit by Defendant Starr County Tax Assessor/Collector, to the date of repayment into the Registry of the Court.
- h. Defendants shall be responsible for their own legal fees, costs, and expenses, including attorneys’ fees, consultants’ fees, and any other expenses or costs.

- i. Defendants, Jose Roel Montalvo, Ninfa Montalvo Mireles, Edna Montalvo Cantu and Anna (Ana Marie) Montalvo Garza, are responsible for the payment of any additional taxes or assessments, which it otherwise owes on the property taken in this proceeding on the date of taking.
- j. The Defendants shall take no appeal from any rulings or judgments made by the Court in this action, and the Parties consent to the entry of all motions, orders, and judgments necessary to effectuate this stipulated judgment.
- k. The Defendants warrant that they are unaware of any unrecorded leases or agreements affecting the interests in the Subject Property taken in this proceeding on the date of taking.
- l. The Defendants shall save and hold harmless the United States from all claims or liability resulting from any unrecorded leases or agreements affecting the interests in the property taken in this proceeding on the date of the taking.
- m. The Defendants do not seek revestment regardless of whether the United States no longer proceeds with constructing infrastructure and wish to proceed with finalizing this condemnation proceeding.
- n. This joint stipulation and motion is binding on the heirs, trustees, executors, administrators, devisees, successors, assigns, agents, and representatives of the Defendants.
- o. The Parties request that the Court enter an Order closing this case on the Court's docket.

**AGREED TO AS TO FORM AND SUBSTANCE:**

**DEFENDANTS:**

*s/ Jose Roel Montalvo* by permission  
**JOSE ROEL MONTALVO**

*s/ Ninfa Montalvo Mireles* by permission  
**NINFA MONTALVO MIRELES**

*s/ Edna Montalvo Cantu* by permission  
**EDNA MONTALVO CANTU**

*s/Anna (Ana Marie) Montalvo Garza*  
by permission  
**ANNA (ANA MARIE) MONTALVO GARZA**

*s/Ameida Salinas Starr County Tax Assessor-Collector*  
by permission  
**AMEIDA SALINAS STARR COUNTY TAX ASSESSOR-COLLECTOR**

**FOR PLAINTIFF:**

**JENNIFER B. LOWERY**  
Acting United States Attorney  
Southern District of Texas

By: *s/ J. Parker Gochenour*  
**J. PARKER GOCHENOUR**  
Assistant United States Attorney  
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Attorney for the United States of  
America

**CERTIFICATE OF SERVICE**

I, J. Parker Gochenour, Assistant United States Attorney for the Southern District of Texas, mailed a true and correct copy of the foregoing document to the parties in this case by first-class U.S. mail, postage prepaid, on August 10-11, 2021.

By: *s/ J. Parker Gochenour*  
**J. PARKER GOCHENOUR**  
Assistant United States Attorney